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REMARKS

I.   The Rejection

Claims 1, 2, 4 – 6 and 9 -13 have been rejected under 35 U.S.C.§ 103(a) as being obvious compared with U.S. Patent No. 5,589,892 – Knee (hereafter "Knee") in view of U.S. Patent No. 6,536,041 – Knudson (hereafter "Knudson").

Claims 3, 7, 8 and 14 -15 have been rejected under 35 U.S.C.§ 103(a), as being unpatentable over Knee '892 in view of Knudson '041 and further in view of U.S. Patent No. 6,035,304 – Machida (hereafter "Machida").

2.   The Rejection Under 35 U.S.C. 103(a) Based on Knee in View of Knudson

In the previous Response, the claim terminology was revised to follow the description of the invention appearing at page 17 of the Specification where the language "concatenation of the partial dynamic summaries" appears.

With that in mind, the present claim 1 recites "transmitting successive partial dynamic summaries" of an event. The content of each such partial dynamic summary "depends on the content of the event occurring since the transmission of the previous partial dynamic summary up to the instant of transmission of the current partial dynamic summary". An upgradeable summary of the event is produced as the result of "concatenating of the successive partial dynamic summaries".

In the current rejection, the Examiner acknowledges "Knee fails to disclose concatenating successive versions of summaries" (rejection, page 3). This deficiency of Knee is said to be made up by Knutson in that :

> "Knutson does not disclose retransmitting the entirety of the data entry, rather that scoring information may have an expiration time after which the score data (not the rest of the event information is replenished. Thus the data is concatenated (sic) as there is a combination of the new data (scores) and the old data" (emphasis and comment added, rejection, page 3, end of first full paragraph).

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It is respectfully submitted that the interpretation of "concatenated" set forth above is inconsistent with the ordinary and accepted definition of the word. Neither Knee nor Knudson mentions "concatenate" and neither accomplishes that function.

The Examiner is specifically requested to reconsider the meaning of the term "concatenating", and, in addition, to reconsider the claim terminology "concatenating successive versions of the summaries successively received in a memory of the receiver".

"Concatenate" has a well-defined meaning. See, for example, Merriam-Webster Online Dictionary where concatenate is defined as

"to link together in a series or chain".

In another recognized online source of definitions (Webopedia), concatenate is defined as

"to link together or join. For example, concatenating the three words *in, as and much*, yields the single word *inasmuch*. ----You can also concatenate files by appending one to another".

In yet another online reference source (Wikipedia), concatenate is defined as

"In formal language theory (and therefore in programming language) concatenation is the operation of joining two character strings end to end. For example, the strings "foo" and "bar" may be concatenated to give "foobar".

Referring to Knudson (see, for example, col.17 referred to in the rejection), it is clear that Knudson does not concatenate "successive versions" of anything. In fact, Knudson teaches away from concatenating successive versions of information. Specifically, Knudson does not disclose "a combination of the new data (scores) and the old data" (see rejection) but rather states that "the program guide stores new, real-time data that has been provided to the program guide in the database to replace the data that has expired" (col. 17, lines 61 – 63). Knudson states that the earlier version of data, rather than being concatenated with successive versions of data, is removed or purged or deleted or cleared out

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and then the "new, real-time data" is substituted. This is significantly different that what every one of Applicant's claims require.

Since Knudson does not disclose, and in fact teaches away from, "concatenating successive versions of the summaries successively received in a memory of the receiver" and, furthermore does not disclose any "upgradeable summary of the --- event being the result of the concatenating of the successive versions of the summaries", reconsideration and allowance of claims 1 – 15 are respectfully requested. Each of the claims includes the same or similar language as that of claim 1 quoted above.

In addition, in each of the cited references, new updated data replaces old data and therefore it is respectfully submitted the data cannot be a "partial dynamic summary relating to disjoint times of the event".

It has been acknowledged by the Examiner that the invention recited by the present claim 1 is not taught or disclosed in Knee.

Knudson adds nothing that is relevant to Knee since, as the Examiner states, Knudson merely transmits "updated sports scores" that are sent "at a regular interval". There is no attempt to concatenate anything in Knudson. It is therefore submitted that claim 1 is also patentable over any combination of Knee and Knudson.

The non-disclosed features as pointed out above are also in the independent claims 4, 9 and 12. For the same reasons as set forth above, these independent claims are patentable in view of the cited prior art.

It is submitted that dependent claims 5 and 6 (dependent on claim 4), claims 10 and 11 (dependent on claim 9) and claim 13 (dependent on claim 12) are also patentable by their dependency from patentable base claims 4, 9 and 12, respectively.

3. The Rejection Under 35 U.S.C. 103 Based on Knee '982 in view of Machida '304

Claims 3, 7, 8 and 14-15 stand rejected under 35 U.S.C. §103(a) as being anticipated by Knee in view of Knudson and further in view of Machida.

The Machida patent relates to a multimedia application storage and

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player for storing distributed application packages. A broadcast network transmits
the application by packages AID_1, AID_2 ... AID_i. During execution, the
downloaded application is also linked with information such as Name, Sex, Birth
date, taste factor, Category, Count etc. associated with the user (see column 13,
line 58). A program inside the receiver calculates a correlation between the key
word of the receiver and words encapsulated in data packages. A version
attribute, which is a number that "is changed ----- each time a user uses any
application" (col. 24, line 63) allows the update of words in a data package.
Figure 71 shows the processing for displaying information. The CPU displays a
message "Version V (not updated)" if the version number last seen by the user
coincides with the version number in storage (see column 25, lines 5 to 20).
Otherwise, a different action is taken by the system.

The Machida patent does not disclose or suggest that partial
dynamic summaries of an event are transmitted, that the content of a partial
dynamic summary depends on the content of the event occurring since the
transmission of the previous partial dynamic summary up to the instant of
transmission of the current partialdynamic summary, or that the upgradeable
summary of the event is the result of the concatenating of the successive partial
dynamic summaries. Machida does not disclose that the information processed
in the receiver is concatenated as claimed in the present application. On the
contrary, the information in Machida is updated only when a version is called up
and it is not the same as was previously viewed by that user. Like Knudson,
each old version is erased when a new version is read into the user's storage
medium.

In relying upon Machida to reject claims 3, 7, 8, 14 and 15, the Examiner
states:

"Machida discloses an EPG system in which the EPG data has time and
data information, as well as a version attribute 130, a STB utilizes this
information to determine how "fresh" the data is (column 14, lines 30-44, column
24, line 60-column 25, line 19)".

The Examiner concludes:

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"Therefore, it would have been obvious --- to modify the combination of Knee and Knudson to utilize the version attribute of Machida thus enabling a user to keep track of when a version of the data was received to track the progress of a sporting event.

Since Machida, like Knudson, fails to disclose concatenation of data, there is no basis for concluding that any combination of the three references renders the present claims unpatentable.

It is noted that Machida does not disclose if the version numbers are consecutive.

The Examiner takes official notice that the use of consecutive version numbers is known and concludes :

"------- Therefore it would have been obvious ------ to modify the combination of Knee and Knutson to utilize the version attribute of Machida thus enabling a user to keep track of when a version of the data was received to track the progress of a sporting event". Contrary to the Examiner's conclusion above, it is respectfully submitted that none of Knee, Machida or the presently claimed application mentions that is concerned with "keep(ing) track of when a version of the data was received to track the progress of a sporting event".

Machida's system is concerned only with keeping a record of which version of information was accessed by a particular user on the last occasion when such information was accessed and replacing old information with new when it is found that the preceding access was with respect to a different version of the information.

This is not what is presently claimed, as is pointed out above. It is therefore submitted that the invention recited by the present claim 1 is not taught or disclosed in Knee taken alone or in combination with Knudson and Machida.

3. (a). Proper Basis for Rejections Under 35 U.S.C. § 103(a)

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings of a plurality of

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references. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all of the claim limitations. The teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not based on the applicant's own disclosure. In re Vaeck, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

The examiner bears the burden of establishing a prima facie case of obviousness and "can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references." In re Fine, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). To support a conclusion that a claimed combination is obvious, either: (a) the references must expressly or impliedly suggest the claimed combination to one of ordinary skill in the art, or (b) the examiner must present a convincing line of reasoning as to why a person of ordinary skill in the art would have found the claimed invention to have been obvious in light of the teachings of the references. Ex parte Clapp, 227 U.S.P.Q. 972, 973 (Bd. Pat. App. & Inter. 1985). Where the teachings of various references conflict, the examiner must weigh the power of each reference to suggest solutions to one of ordinary skill in the art, considering the degree to which one reference might accurately discredit another. In re Young, 18 U.S.P.Q.2d 1089 (Fed. Cir. 1991).

3. (b). The §103(a) Rejections Are Not Properly Made Out

The action does not make out a prima facie case of obviousness with respect to the pending claims. The § 103(a) rejections of the claims are based on the combination of Knee in view of Knudson or Knee in view of Knudson and Machida. There is nothing, however, in Knee, Machida or Knudson which would lead a person of ordinary skill to combine these references to arrive at the presently claimed combinations of elements. In fact, there is a total lack of any disclosure of "concatenation" and a teaching away from such a feature in the cited references. It is respectfully submitted that there is no support for a prima facie case of obviousness of any of the independent claims or any of the

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dependent claims.

The law mandates that a reference must be considered for all that it teaches, not just some part that supports a particular position. In re Hedges, 228 U.S.P.Q. 685, 687 (Fed. Cir. 1986). The examiner cannot simply pick and choose those portions of the reference which support his position and ignore those portions that do not. Id. Thus, the examiner is not free to discard the Knudson paten teachings to expressly delete, purge, discard, etc. prior data before inserting real time, new data into the system. Similarly, the Examiner is not free to discard the Machida patent teachings that relate to the "version" information being a record, not of what is taking place in an "event" that is being received, but rather relate to actions by the user "each time a user uses any application" (see col. 24, line 63). It can therefore readily be seen that the disclosure in Machida of "versions" is in no way combinable with Knee or Knudson to render the presently claimed invention(s) obvious.

There is simply nothing in Knee or Knudson or Machida which would lead anyone to adopt the use of Machida's teachings into either or both of the other references, absent motivation in the applied references to do so and a reasonable expectation of success for some useful purpose.

From the teachings and disclosure in the Machida patent, one skilled in the art simply is not aware that there is any reason to be concerned with storing "versions" in Knee or Knudson. Without such an awareness, the skilled artisan would not be motivated to modify the teachings of Knee or Knudson to somehow combine them with Machida.

It is respectfully submitted that the suggested combination can be motivated solely by hindsight reasoning guided by the applicant's own disclosure — reasoning that is expressly forbidden during the examination of a claim under § 103(a). In re Gorman, 18 U.S.P.Q.2d 1885, 1888 (Fed. Cir. 1991); In re Fritch, 23 U.S.P.Q.2d 1780, 1784 (Fed. Cir. 1992). Accordingly, reconsideration and withdrawal of the rejections under § 103(a) are respectfully requested.

The non-disclosed features as pointed out above are also in the independent claims 4, 9 and 12. For the same reasons as set forth above, these

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independent claims are patentable in view of the cited prior art.

It is submitted that claims 6-8, 10-12, 13-15 are also patentable, at least by their dependency from patentable base claims 4, 9 and 12, respectively.
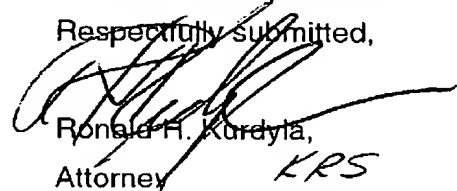
Having fully addressed the Examiner's rejections it is believed that, in view of the preceding amendments and remarks, this application stands in condition for allowance. Accordingly, reconsideration and allowance are respectfully solicited.

Significant additional distinguishing features are also contained in others of the dependent claims but, in view of the total lack of significant elements of the independent claims in either cited reference, as pointed out above, claims 1 – 15 of this application are respectfully submitted to be in condition for allowance, which action is requested.

CONCLUSION

In view of the foregoing, reconsideration and withdrawal of all of the rejections and allowance of all pending claims 1 –15 are respectfully requested.

Respectfully submitted,

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